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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 2113 of 1998

New Delhi, this the 19<sup>th</sup> day of February, 1999

Hon'ble Mr. N. Sahu, Member (Admnv)

Musrat Ali s/o Sh. Nause Ali, r/o  
36/265, Trilokpuri, Delhi

- APPLICANT

(By Advocate Shri Yogesh Sharma)

Versus

1. Union of India through the Secretary,  
Ministry of Defence, Army Head  
Quarter, New Delhi.

2. The Director, Dept. of Military  
Dairy, Army Head Quarter, South Block,  
New Delhi.

3. The Officer-in-Charge, Military  
Dairy Farm, Govt. of India, Ministry  
of Defence, Bareilly (UP)

- RESPONDENTS

(By Advocate Shri A.K. Bhardwaj)

O R D E R

By Mr. N. Sahu, Member (Admnv)

The application is directed against the order of termination dated 31.8.1998 against the applicant who was engaged as a casual labourer in the year 1988 on 1.3.1988 through Employment Exchange and was granted temporary status after completion of the prescribed number of days of work. He has thus rendered a decade of service and, therefore, the impugned order terminating his services from 1.9.1998 was stated to be unjust and arbitrary. It is also mentioned that the nature of work performed by the applicant for the last 10 years is of a perennial nature and the said termination is violative of the Contract Labour (Regulation and Abolition) Act, 1970 particularly Section 10 thereof. It is also alleged that number of junior persons are working. In the OA

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a decision of this Court in this case of Shri Abhay Singh and others Vs. Union of India and others, OA NO.770 of 1997 decided on 24.9.1997 was cited in support of the applicant's claim. In the background of the above facts the applicant seeks a direction to cancel the impugned order and to declare that the proposed action of the respondents to engage labourers through contractors would be against the principles of natural justice. The learned counsel also cited the decision of the Hon'ble Supreme Court in the case of Air India Statutory Corporation Vs. United Labour Union and others, 1996 (6) SLR 233.

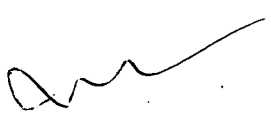
2. The learned counsel for the respondents on the other hand submitted that a policy decision had been taken to progressively mechanize the Military Farms. There was considerable reduction of work. A decision thereafter was taken to retrench the surplus casual labourers including those accorded temporary status. In accordance with para 7 of the DOPT's OM dated 10.9.1993 the services of the casual labourers surplus staff, all of them, were proposed to be terminated on payment of one month's salary in lieu of notice period and compensation at the rate of 15 days' salary at current rates for each completed year with 240 days attendance. This retrenchment order was accordingly served on 1.9.1998 on all the affected people but the applicant refused to receive the same. The respondents thereafter sent the cheque of salary in lieu of notice and compensation to his home address but this was evaded by the applicant. He accordingly did not come out with clean hands in

this OA. It is necessary to mention that as the respondents did not respond to the opportunity given to the proposed interim relief, accordingly by an order dated 18.11.1998 the interim relief was granted to reengage the applicant till the disposal of the application.

3. It is very clear that the applicant did not disclose all the facts to the Tribunal before taking the benefit of interim relief. The retrenchment order along with the salary for one month as well as compensation was prepared and an attempt was made to serve on him. He knew about this. He evaded the service and pleaded before the Bench that the services were terminated without giving him a reasonable opportunity of being heard.

4. A casual labourer even with temporary status does not have right to any post. Shri A.K.Bhardwaj, learned counsel for the respondents categorically asserted at the time of hearing that about 20 casual labourers, some of them with temporary status, were retrenched on the ground that no work was available for them because of the proposed mechanization of the Farm. This is a policy decision and the respondents are free to take such a decision. The retrenchment order itself states at Annexure-A-1 as under -

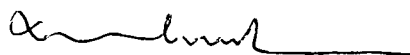
"You would be considered for reengagement as per your seniority as and when regular vacancy occurs. You may also take up "Job basis" work to the extent available."



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5. It is made clear in the 1993 Scheme of the Govt. of India coming into effect from 1.9.1993 that conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement would be on daily rates of pay on need basis and he would be deployed anywhere on the basis of availability of work. [Sub para(iii) of Para 4]. A notice of one month in writing is also met by paying the wages for that period which the respondents have done. Shri Bhardwaj further submits that whatever work or job is available, no junior or outsider would be engaged and the applicant would always be invited to do this job if he fulfils the seniority test. The applicant's counsel, however, had apprehensions that re-engagement on job basis gives rise to the specter of contract labourers. Any availability of work would generally mean specific work ~~or~~ within a time frame by whatever nomenclature it be called. There is nothing wrong in the respondents' promise to invite the applicant according to his position in the seniority list if such work is available to the exclusion of juniors and outsiders. In this behalf any other meaning or connotation attributable to the communication of the DGF Military Farms Branch No. A0013/ PEIQ/MF-4 (Gen) dated 14.8.1998 inconsistent with what has been stated above would be inoperative. Nothing further survives in this OA and it is disposed of as above. No costs.

  
(N. Sahu)  
Member (Admnv)

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